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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,011	03/24/2004	Takeshi Tsuji	FP04-015US	5690
1218	7590	12/02/2004	EXAMINER	
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			HARVEY, JAMES R	
			ART UNIT	PAPER NUMBER
			2833	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,011

Applicant(s)

TSUJI, TAKESHI

Examiner

James R. Harvey

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3-24-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

- The Information Disclosure statement(s) and related documents that were filed on 3-24-04 have been considered.

Priority

- Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

- The drawings are objected to because the cross-hatching is improper. See MPEP 608.02.

For example, portions of the drawings in section and made of an insulated material must be crosshatched with alternating thick and thin lines, not with just thin lines.

- **Please note that drawing corrections will no longer be held in abeyance. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application.**
- **If drawing correction are not submitted with the response to this office action, the response will be consider a Non-Responsive Reply and the following paragraph will apply:**

The reply filed on (...) is not fully responsive to the prior Office Action because: (...) Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Claim Objections

- Claim(s) 2,3,5,6,8,11,12,14, and 15 are objected to because of the following informalities:
 - In reference to Claim(s) 5 and 14, the recitation “are provide are provided such that” appears to be a translation error. For purposes of examination, it is assumed that the language is intended to mean “widened portions are provided and a width is provided”. An examination based on the merits, as best understood, is addressed below.
 - In reference to Claim(s) 2, 8, and 11, the recitation “in a range of about 10% to about 30%” is vague and indefinite. It is not clear how the word “about” limits the percentage values of the claim. For purposes of examination, it is assumed that the language is intended to mean that the claimed percentage values are the minimum and maximum respective values of the range. An examination based on the merits, as best understood, is addressed below.
 - Appropriate response to the above is required.

Claim Rejections - 35 USC § 102

- The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2833

** Claim(s) 1, 4-7, 9, 10, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Crimmins et al(3272913).

-- In reference to Claim(s) 1 and 9, Crimmins shows (figures 3 and 4)

a main body (16),

a lid (17) configured to close the main body (16) for covering at least one wire (12)

between the main body (16) and the lid (17); and

a flexible hinge (see examiner's figure) with a first end (see examiner's figure) coupled to the main body (16) and an opposite second end (see examiner's figure) coupled to the lid (17), the flexible hinge having a weakened portion (see examiner's figure), the weakened portion being formed in a set region (see examiner's figure) with outer ends (see examiner's figure) at positions spaced in towards a middle part of the flexible hinge from the opposite ends by a specified distance (see examiner's figure).

-- In reference to the recitation "for making the flexible hinge easier to bend", this is seen to be for the intended use of the claimed structure and is given little patentable weight, since it has been held a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Further, the claim language is not seen to claim any structure that would inhibit the reference from being used for the same purpose as the intended use recitations of the claim.

-- In reference to Claim(s) 10, Crimmins shows at least one engaging portion (23,24) is provided in at least one of the main body (16) and the lid (17).

In particular reference to the recitation “for engaging a portion of a corrugate tube”, this is seen to be for the intended use of the claimed structure and is given little patentable weight, since it has been held a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Further, the claim language is not seen to claim any structure that would inhibit the reference from being used for the same purpose as the intended use recitations of the claim.

-- In reference to Claim(s) 4 and 13, Crimmins shows the weakened portion (see examiner's figure) is substantially symmetrical with respect to a longitudinal direction (LD) and transverse direction (TD) of the flexible hinge.

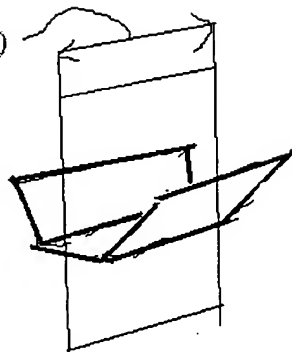
-- In reference to Claim(s) 5 and 14, Crimmins shows widened portions (see examiner's figure) and a width of the flexible hinge (40) along a transverse direction (TD) is widened gradually towards the opposite ends (40a, 40b).

-- In reference to Claim(s) 6 and 15, Crimmins shows the widened portions (WD) are provided completely within the specified distance (L; L').

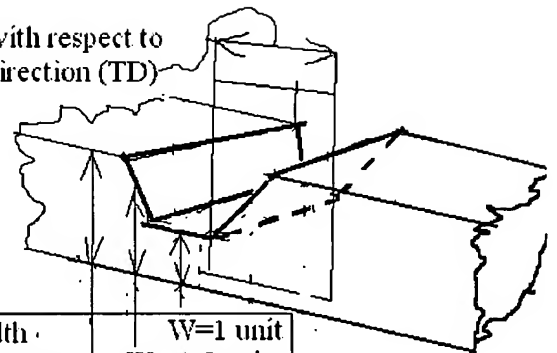
-- In reference to Claim(s) 7, Crimmins shows (see examiner's figure; widened portion) the flexible hinge has a substantially constant thickness at all locations spaced from the weakened portion (see examiner's figure). The spacing is seen to be at the transition area where the width changes from 1 unit to 2 units and results in the widened portion (2 units wide) being spaced from the weakened portion (1 unit wide).

Art Unit: 2833

symmetrical with respect to
a longitudinal direction (LD)

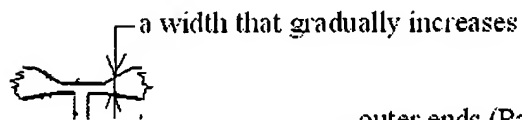


symmetrical with respect to
a transverse direction (TD)



a width
is widened
gradually

W=1 unit
W=1.5 units
W=2 units



outer ends (Pa, Pb)
of the set region (R)

first end (40a) / second end
opposite ends (40a, 40b)

weakened portion (41)
slit (41)
along
region (R)

hinge (40)

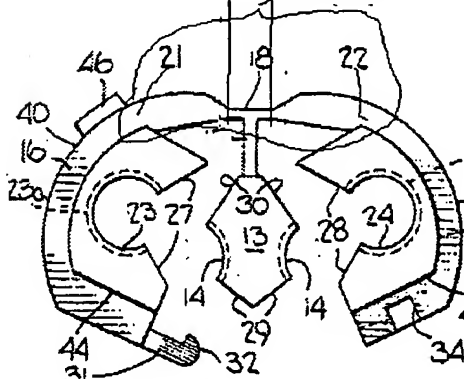


Fig. 4.

Longitudinal extension (LE)

widened portions (40W)

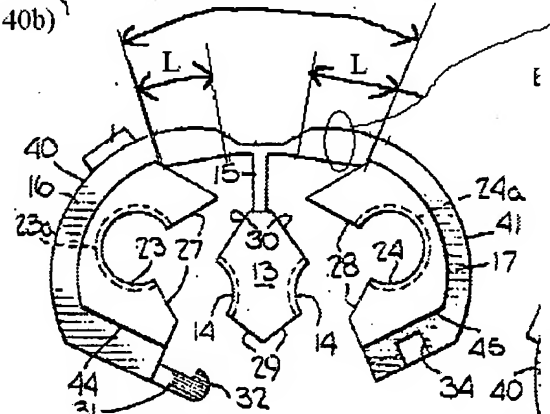


Fig. 4.

Claim Rejections - 35 USC § 103

- The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**** Claims 2,3,8,11, and 12 are rejected under 35 U.S.C. 103(a) as obvious over Crimmins et al. (3272913).**

-- In reference to Claim(s) 8, Crimmins shows a flexible hinge (see examiner's figure) with opposite ends (see examiner's figure) unitarily coupled respectively to each of two members (16, 17), the flexible hinge (see examiner's figure) being bendable for bringing the opposite ends (see examiner's figure) to substantially face each other (figure 5), the flexible hinge (see examiner's figure) being formed with a slit¹ (see examiner's figure) symmetrically disposed in the flexible hinge (see examiner's figure) along a set region (see examiner's figure), the set region (see examiner's figure) having outer ends (see examiner's figure) spaced in towards a middle part of the flexible hinge from the opposite ends (see examiner's figure) and the flexible hinge having a width that gradually increases (see examiner's figure) at locations between the outer ends of the set region and the opposite ends.

However, the record of Crimmins is not explicit as to the recitation "the set region having outer ends spaced in towards a middle part of the flexible hinge from the opposite ends by specified distances in a range of 10% to 30% of a complete Longitudinal extension.

Art Unit: 2833

The dimension value range of 10% to 30% is seen to be a function of the size of the dimensions shown by Crimmins.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the workable dimensions of the invention of Crimmins, since such a modification would have involved a mere change in the size or shape of a component. A change in size or shape is generally recognized as being within the level of ordinary skill in the art. *In re Daily*, 149 USPQ 47 (CCPA 1976). Further, it has been held that variations in the distance would have been obvious minor adjustments without patentable significance. See *In re Aller*, 105 USPQ 233 (CCPA 1955)(Where general conditions of the claim are disclosed in the prior art, it is not inventive to discover optimal or workable ranges by routine experimentation). One skilled in the art would be motivated to adjust the dimension to allow the invention of Crimmins to be marketable to a customer that required larger diameter cables than diameter shown by Crimmins.

-- In reference to Claim(s) 2 and 11, Crimmins shows substantially the invention as claimed.

However, Crimmins is not explicit as to the specified distance by which the outer ends of the set region are spaced from the opposite ends of the flexible hinge is in a range of 10% to 30% of a complete longitudinal extension of the flexible hinge.

The dimension value range of 10% to 30% is seen to be a function of the size of the dimensions shown by Crimmins.

¹ While applicant's drawings show a slit that passes through the web, it is seen to be important to note that applicant only claims a slit which is seen to be an opening in the side or upper portion of the web (see attached definition from The American Heritage Dictionary).

Art Unit: 2833

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the workable dimensions of the invention of Crimmins, since such a modification would have involved a mere change in the size or shape of a component. A change in size or shape is generally recognized as being within the level of ordinary skill in the art. *In re Daily*, 149 USPQ 47 (CCPA 1976). Further, it has been held that variations in the distance would have been obvious minor adjustments without patentable significance. See In re Aller, 105 USPQ 233 (CCPA 1955)(Where general conditions of the claim are disclosed in the prior art, it is not inventive to discover optimal or workable ranges by routine experimentation). One skilled in the art would be motivated to adjust the dimension to allow the invention of Crimmins to be marketable to a customer that required larger diameter cables than diameter shown by Crimmins.

-- In reference to Claim(s) 3 and 12, Crimmins shows the weakened portion (see examiner's figure) comprises a slit¹ (see examiner's figure) penetrating the flexible hinge.

Conclusion

- The prior art listed on PTO form 892 that is made of record and not relied upon is considered pertinent to applicant's disclosure because it shows the state of the art with respect to applicant's claimed invention. In particular Grunwald shows many weakened portions, Ghosh et al. shows (figure 8) a weakened portion slots 76 on hinge 70, and L'Abbate et al. also shows (figure 1) a hinge 8 with a weakened portion at the hinge.
- Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Harvey whose telephone number is 703-305-0958. The examiner can normally be reached on 8:00 A.M. To 5:00 P.M.

Art Unit: 2833

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on 571-272-2800 extension 33.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2800.

- Effective **October 1, 2003**, all patent application related correspondence transmitted by facsimile must be directed to the central facsimile number, **(703) 872-9306**, with a few exceptions. *See Fax Automation in Technology Center 1700*, 1237 *Off. Gaz. Pat. Office* 140 (August 29, 2000). Replies to Office actions including after-final amendments that are transmitted by facsimile must be directed to the central facsimile number. Unofficial correspondence such as draft proposed amendments for interviews may continue to be transmitted by facsimile to the Technology Centers.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James R. Harvey, Examiner

jrh

November 28, 2004

A handwritten signature in black ink, appearing to read 'JRH', with a long, sweeping horizontal line underneath it.